

REMARKS

Claims 10-15 are pending. Independent claim 10 has been amended to unequivocally specify the sequence of the steps of the claimed method. Reconsideration of the application is respectfully requested.

Claim 10 was again rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang et al. (WO98/03218) in view of Anderson et al. (U.S. Patent No. 5,500,180). The Examiner asserts that the Wang et al. reference teaches radially expanding extruded tubing at a first elevated temperature to form the balloon at a first diameter, and then annealing the balloon at a second elevated temperature, suitably above 50°C. Anderson et al. is relied upon as teaching a method of making balloon catheters using block copolymers radially expanded at a first temperature of about 90-100°C, while a second heating step would preferably be conducted at a temperature range higher than the first. It is the Examiner's position that it would have been obvious to modify the method of Wang et al. to include the steps of two additional elevated heating steps of the extruded tube as taught by Anderson et al.

However, as had previously been pointed out, the references, alone or in combination, do not disclose or suggest annealing the extruded tube, as opposed to the radially expanded tube formed from the extruded tube, at not less than about 50°C, to form a noncompliant balloon as required by Applicant's claim 10. Rather, as set forth by the Examiner, Wang et al. discloses that the tube is first radially expanded to form the balloon and then the balloon (i.e., the radially expanded tube) is annealed. Wang et al. does not disclose or suggest annealing the tube itself (i.e., prior to expanding the tube). In accordance with the teaching of Wang et al., the balloon is annealed in order to radially shrink the balloon to a smaller expanded outer diameter. Similarly, Anderson et al. discloses heat setting the already formed balloon and does not disclose or suggest annealing the tube itself.

In the paragraph 5 of the Office Action, the Examiner asserts that the applicants' argument is misplaced because the claim does not require annealing the tube prior to its

expansion and that the claim is broad enough to include annealing the tube before, during, or after its expansion. Pursuant thereto, the claim has now been amended to unequivocally call for the annealing of the tube to occur **before** expansion to unequivocally distinguish the teachings of the cited references. Moreover, in view of the fact that Wang et al. and Anderson et al. are explicitly directed to forming compliant balloons (i.e., with a high compliance), and do not disclose or suggest a method which results in a noncompliant balloon as required by Applicant's claim 10, it is respectfully submitted that obviousness is effectively avoided.

Claims 11-13 were rejected under 35 U.S.C. § 103(a) as obvious over Wang et al. in view of Anderson et al and further in view of Wang et al (USPN 5,500,181). In view of the non-obviousness of the underlying independent claim 10 as was argued above, it is respectfully submitted that all claims depending therefrom similarly avoid obviousness.

Claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as obvious over Wang et al. in view of Anderson et al. In view of the non-obviousness of the underlying independent claim 10 as was argued above, it is respectfully submitted that all claims depending therefrom similarly avoid obviousness.

In light of the above amendments and remarks, applicants earnestly believe the application to now be in condition for allowance and respectfully request that it be passed to issue.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,

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